

EXHIBIT 3

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS
NO. 04 CV 11522 (JLT)

_____)
STEVEN R. KINCAID,)
)
Plaintiff,)
)
vs.)
)
BANK OF AMERICA CORPORATION,)
)
Defendant.)
_____)

**DEFENDANT'S SECOND SUPPLEMENTAL RESPONSES
TO PLAINTIFF'S FIRST REQUEST TO DEFENDANT FOR
PRODUCTION OF DOCUMENTS**

Defendant Bank of America Corporation responds to Plaintiff's First Request to Defendant for Production of Documents as follows:

LIMITATIONS AND DEFINITIONS

Pursuant to the Court's discovery order dated September 2, 2005, Defendant responds to request numbers 15, 16, and 17, limited to claims of age discrimination

For purposes of this response, "CONCERNING" as used in the request is limited to mean "evidencing

For purposes of this response, "Plaintiff" means Steven Kincaid

For purposes of this response, "Defendant" means Bank of America Corporation.

For purposes of this response, Defendant defines the term "claim" to mean "the assertion of an existing right; any right to payment or to an equitable remedy, even if contingent or provisional," *Black's Law Dictionary*, 7th ed.(1999), which Defendant defines to include an internal claim for relief made to Defendant's personnel call center or an internal

claim for relief made Defendant's legal department. Because Plaintiff has distinguished claims from "charges" and "lawsuits," Defendant does not define "claim" to include formal charges and lawsuits.

For purposes of this response, Defendant assumes Plaintiff means "Competitive Intelligence" unit, not "Competitive Analysis" unit.

As of the time of this response, Defendant is diligently conducting a search of its internal claims to identify responsive matters. However, its search is incomplete as to Market Information Managers and CAMR associates at any time from August 20, 2002 to June 13, 2003, who voluntarily terminated or who are active employees. Thus, the responses to Interrogatories 11 and 12, below, are limited to claims by those who were involuntarily terminated. Defendant shall supplement these responses, as necessary, based on the final results of its search.

15. All documents [evidencing] claims against defendant of [age] discrimination . . . made by any Market Information Manager at any time from January 1, 2000 to the date defendant responds to this document request.

RESPONSE:

Defendant refers Plaintiff to documents produced in this matter evidencing his own claim and which are already in his possession, custody and control. Defendant shall supplement this response, as necessary, based on the results of its ongoing search. In the event no additional documents are responsive to this request, Defendant shall so inform Plaintiff.

16. All documents [evidencing] claims against defendant of . . . [age] discrimination . . . made by any person formerly or currently employed in defendant's Customer Analysis Modeling & Research Department at any time from January 1, 2000 to the date defendant responds to this document request.

RESPONSE:

Defendant refers Plaintiff to documents produced in this matter evidencing his own claim and which are already in his possession, custody and control. Defendant shall supplement this response, as necessary, based on the results of its ongoing search. In the event no additional documents are responsive to this request, Defendant will so inform Plaintiff.

17. All documents [evidencing] claims against defendant of age discrimination made by any person who left the employ of defendant's Competitive Analysis (sic) unit at any time between October 1, 2002 and May 31, 2003.

RESPONSE:

Defendant is not in possession, custody and control of responsive documents. Defendant shall supplement this response, as necessary, based on the results of its ongoing search. Defendant shall supplement this response, as necessary, based on the results of its ongoing search. In the event no additional documents are responsive to this request, Defendant will so inform Plaintiff.

This 10th day of October 2005



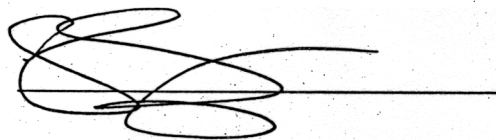
Siobhan M. Sweeney
BBO No. 562118
Edwards & Angell, LLP
101 Federal Street
Boston, MA 02110
(617) 439-4444
Facsimile: (617) 439-4170

George P. Kostakos
Edwards & Angell, LLP
2800 Financial Plaza
Providence, RI 02903
Phone: 401.528.5864
Fax: 401.276.6611

Attorneys for Bank of America, N.A.

Certificate of Service

I hereby certify that a true copy of this document with Exhibits A and B was served on counsel of record for plaintiff, David Fine, Esq., on in "pdf" format on October 10, 2005 by electronic mail to DvdFine@aol.com



CERTIFICATE OF SERVICE

I hereby certify that on this day a true copy of
above document was served upon the
counsel of record for each party by mail/by hand.

10/11/05 Cynthia [Signature]